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Review of “What We Owe To Each Other”

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Book Review

What We Owe To Each Other. T.M. Scanlon. Cambridge, Harvard University Press. 1998. ix + 420 pages. Index. Bibliography. \$18.95

Since John Rawls's *A Theory of Justice* in the 1970's, there has been a resurgence of interest in contractarian moral theory. T.M. Scanlon's *What We Owe to Each Other* is one of the more recent books to join the canon on contemporary contractualism. However, even though Scanlon's theory is more plausible than Rawls's, the former incorporates many of the well-known weaknesses of contractualism, as well as several unique ones.

In this review, I will first explicate Scanlon's theory. This task is not as easy as it could have been. Scanlon often first says what his theory is not, rather than proceeding more positively to what it is. The oblique style of writing tends to obscure the details of his position. Furthermore, Scanlon's use of double negations¹, run on sentences, and idiosyncratic definitions of common terms² serve to distract and confuse readers as to what the main ideas, principles, and arguments are that Scanlon wishes to espouse.

Second, I will develop four criticisms of Scanlon's position on morality. The first two are general criticisms of contractarian/contractualist³ theory. The second pair address unique problems to which Scanlon's theory falls prey. First, the narrowness of scope makes his theory only relevant, perhaps, to counterfactual worlds rather than this one. Second, the theory itself seems to produce plausible results if and only if a small group of people sharing identical ideas, intuitions, evidence, and other mental states use it. Otherwise, contrary to what Scanlon can allow, reasonable people with reasonable differences in beliefs can accept different moral principles governing any situation.

Section 1: The Theory

Scanlon's version of contractualism is different from Rawls's theory. While Rawls focuses only on what a rational self-interested person would agree to under the veil of ignorance while in the original position, Scanlon bases his theory on a less self-preoccupied group of people. The motivational basis of agreement is wholly dependent upon parties, who are "not merely...seeking some kind of advantage but also [are] moved by the aim of finding principles that others, similarly motivated, could not reasonably reject" (p. 5). On these grounds, Scanlon's theory better captures what people are really like, rather than basing his theory on the implausible and vague economic notion of the self-interested person.

Though ostensibly billed as contractualism, Scanlon's theory takes elements of Kantianism and

combines them with utilitarianism. Incorporating parts of Kant's first formulation of the Categorical Imperative, Scanlon claims that an action is morally wrong if the action's-

performance under the circumstances would be disallowed by any set of principles for the general regulation of behavior that no one could reasonably reject as a basis for informed, unforced general agreement. (p. 153)

Instead of the agent being unable to consistently will the generalized form of the maxim governing the situation as a law of nature making the action wrong, the action is forbidden by principles that no one can reasonably reject.

Unlike Conventionalism in which an act is right if and only if no convention is violated in the society in which the act would be done, Scanlon's contractarian theory requires that there be a principle or set of principles which explicitly prescribe the action. Due to the theory's contractarian nature, in order for an act to be wrong or right, there must be at least one principle, which no one can reasonably reject, that either forbids or requires the action, respectively.

In a different formulation of his theory, Scanlon claims that "an act is right if and only if it can be justified to others" (p. 189).⁴ According to Scanlon, justifiability is both the "normative basis of the morality of right and wrong and the most general characterization of its content" (Ibid.).

Scanlon's justification standard is that "no one, if suitably motivated, could reasonably reject" (p. 189) the principles that prescribe or prohibit behavior. Moreover, according to Scanlon, "our thinking about right and wrong is structured by [the motivation] of finding principles that others, insofar as they have this aim, could not reasonably reject" (p.191.) Hence, the principles of moral action, and Scanlon claims that there can be many of them (p. 201), are those to which everyone would agree.

Though the two formulations of the theory seem to be grounded in vastly different origins, they are not incompatible. For Scanlon, the principle governing the situation must be one that justifies the action to other people. Hence, if no one could reasonably reject the principle, then the action prescribed by the principle is justified (p. 5.) Conversely, if the action is justified, then it must be prescribed by a principle that no one could reasonably reject.

The question then arises as to what is entailed by the reasonable rejection standard Scanlon has incorporated into his theory. In order to discover the proper principles to govern behavior, a reasonable person would sequentially follow the steps listed below:

1. Consider possible principles governing behavior for the situation.
2. Ask oneself "whether any principle that permitted one to do [a particular action] in those circumstances, could, for that reason, be reasonably rejected. (p. 195)
3. Evaluate the burdens that would be imposed upon people if others were permitted to act according to the principle.
4. Evaluate the burdens of rejecting the principle. That is, what are the costs to all the people affected by forbidding people to act in the way proscribed by the candidate principle?
5. Finally, determine which alternative principle is better and adopt it. A reasonable person would see greater value in accepting the better principle over the worse. Hence, there would be no grounds

for reasonably rejecting the better, but grounds for rejecting the less valuable. (pp. 195-7)

Moreover, the evaluation of a principle must include not only the actual consequence of a particular action, “but also the consequences of general performance or non-performance of such actions and of the other implications...of having agents...licensed and directed to think in the way the principle requires” (p. 203.) Scanlon directs us to place ourselves in the “standpoints” of the various people, who probably would be affected by the action, so that we can better understand the costs of adopting or forbidding the principle. This seems similar to Kant’ Principle of Reversibility. Second, we must examine the situation from the perspective of what could be considered to be Hume’s unbiased spectator. By eliminating the bias, we can better perceive the overall costs generated from general acceptance of the principle. This is similar to Kant’s Principle of Universalizability.

For Scanlon, there are a variety of personally valuable things relevant to the evaluation, any of which can be a principle defeater. First is fairness. According to Scanlon, it is a sufficient ground to reject a principle if the principle gives preference to one or another, without adequate justification (p. 212). That is, if such a disparity cannot be justified to all, it would be unreasonable to accept a principle that would clearly favor one person or small group of people, who do not deserve such favoritism, over those who do deserve it or have identical desert status as the former.

Furthermore, the well being, i.e., that which “makes someone’s life go better” (p. 141,) of people affected by the action must be taken into account, though it is not a master value (pp. 141-3). In order to reject a principle on these grounds, there “must be some relevant standpoint from which people typically have good reason either to refuse to accept that principle as part of their own practical thinking or refuse to recognize it as a ground that others may use to justify their conduct” (p. 218). We must consider the main beneficiaries of the principles and the costs to the agents constrained by the principle and to the beneficiaries of alternate principles who receive nothing if the candidate principle is adopted (p. 213). If their well being is compromised in a way that cannot be reasonably accepted by all, then there is good reason to reject the principle. Other personal reasons which are sufficient to reject a principle are the “claims...or status of individuals in any particular position” (p. 219).⁵

Finally, in order to fully comprehend the workings of Scanlon’s theory, let us consider his Rescue Principle, which might be considered a paradigm for his theory.⁶ The Rescue Principle simply states,

if you are presented with a situation in which you can prevent something very bad from happening, or alleviate someone’s dire plight, by making only a slight (or even moderate) sacrifice, then it would be wrong not to do so (p. 224).⁷

To make the principle even more plausible than it already is, let us drop the moderate sacrifice clause, and examine the resulting rule of conduct.

Running the Rescue Principle through Scanlon’s steps to determine reasonable rejection, we see that this principle cannot be reasonably rejected, given certain conditions. First, suppose that our choices are arbitrarily limited to the Rescue Principle and the Anti-Rescue Principle.⁸ The latter rule, incorporates the same antecedent of the implication, but alters the consequent to say it would be

permissible to not assist. After careful evaluation of the burdens and benefits imposed by both rules, we come to the obvious conclusion that the Rescue Principle is necessarily better. Saving people from great harm at little cost to oneself must be better than allowing the harm to occur. Furthermore, well being would be best served. The well being of the person who sacrifices a small amount is not significantly harmed, while the well being of those, who would have been greatly injured had not the agent intervened, is preserved. In addition, the principle would apply to all equally; thereby, creating no unjustified favoritism. Given these facts, the Rescue Principle appears to be one that cannot be reasonably rejected, at least, if all share the same intuitions, mental states, and aims as every one else.

Section 2: Four Criticisms

Scanlon's theory faces a number of serious objections, four of which I will address. The first two are general problems, which all contractualist theories face. Contractarian theories have a tendency to merely tell us what people think is right or wrong, rather than why something is right or wrong. Furthermore, since morality does not exist prior to the contract, contractarianism, if true, would entail that anything that is agreed upon is ethical. Not surprisingly, however, the terms of each theory's contract always include clauses virtually identical to other contract theories--and fundamental moral intuitions, which everyone seems to share. This universal similarity should make us rightly suspect that contractualism merely incorporates a prior, objective morality into the contract, instead of creating morality by fiat.

Second, two unique problems face Scanlon's theory. One is that by narrowing the scope of obligations to merely those we owe to each other, Scanlon might have made his theory irrelevant to actual morality. Second, Scanlon's theory incorporates so many blind intuitions that it serves merely to reflect Scanlon's biases, rather than being an objective, practical theory. I will consider each objection in turn, beginning with the first mentioned above.

The first objection is based upon the very plausible claim that there is a difference between declarative statements about agreement among individuals and the rightness or wrongness of actions, which is something a contractarian cannot normally recognize. The statement "X is right" does not necessarily have an identical meaning to either the statement "No one can reasonably reject a principle that commands that X be done," or "Everyone agrees that X is right." The burden of proof, thus, is on the shoulders of the contractarian to show that an action being right is made right *because* of the agreement or inability to reasonably reject and not for some other reason.

What makes the contractarian's burden even more difficult is the plausibility of two claims, which are diametrically opposed to his position. First, though a contractarian theory can classify correctly in certain situations, it is reasonable to believe that the action has this status for reasons other than contractarian ones. For example, the killing of neonates, just to serve as amusement for the killer, is an action that most people would agree is unethical. Moreover, they would reasonably reject any principle that permitted it and be unable to reasonably reject any principle expressly prohibiting it. Hence, we have discovered an action which Scanlon's theory correctly classifies.

However, besides the fact that it is prohibited in the proper contractarian way, there are other explanations as to why the act of killing neonates is unethical, including those based upon utilitarian, Kantian, and justice theories. Claiming that the action is unethical because it is

proscribed by principles “that no one, if suitably motivated, could reasonably reject” (p.189) is merely saying why people think it is wrong, not why it is wrong. There is an argument missing here that bridges the gap between what people agree to or can reasonably reject and why actions are right or wrong.

The second claim is that it is reasonable to believe that actions are right or wrong, regardless of whether or not people agree they are right or wrong or cannot reasonably reject principles requiring or forbidding the performance of the actions. For example, let us examine a case in which all the members of a society fulfill Scanlon’s conditions, but the principle that no one can reasonably reject is a bad one. Suppose a particular society disvalues women to such an extent that everyone in the society believes, including the women, that they hold a moral status below that of full persons. Women are considered to be a little more rational than children, but not by much. Treating any woman as if she actually held this status would be permissible under contractarianism as a whole because no one could reasonably reject a principle allowing it--no one would be capable of thinking of women as anything more than more rational children. However, it is abundantly clear to us--on a variety of different grounds--that this sort of activity is morally wrong.

Scanlon’s task here is to convince us that what is clear to us in either of the cases above is actually a mistake that we have made in our moral evaluation, rather than being a defect in his theory. However, generally, in works espousing contractualism, there is no in depth attempt to prove the legitimacy of the contractarian’s project.⁹ Scanlon’s book is no exception to the rule.

The second objection focuses on what we should consider to be the odd result of the nearly identical assumptions and results of contractarian theories. Given the fact that morality exists only *after* the contract, it is a strange coincidence for each theory to address moral issues in much the same way as we find in our moral intuitions. For example, many believe that fairness and well being are morally valuable things, regardless of whether or not they are contractualists such as Scanlon (pp. 206 & 213). If morality is truly as the contractarians say it is, then the theories should have widely divergent views. Their only similarity would be the fact that they are not reasonably rejectable by anyone.

The question is how can we account for such a similarity, especially in light of the fact that the contract is what is supposed to establish what morality is, not morality establishing what the contract should be? If contractarian theory is correct, then *anything* the people appropriately contract for should be correct, *ipso facto*, regardless of what it is. If permitting random murders by a small group is built into the contract, agreed to by all people in society, then such activity must be, by definition, moral.

As Scanlon recognizes in his section on reasonably rejecting principles and well being (ff213), if we were to incorporate prior notions of rightness into the contractarian theory, then contractarianism is unnecessary. However, how can we not incorporate our intuitions? If contractualism is true, then how do we get started with the contract? If we don’t incorporate prior intuitions about well being, etc. as starting points, then we are faced with the intuitively unappealing alternative of allowing anything to be moral for a society, no matter how intuitively repulsive it might be. If we do incorporate, then we must reject contractarianism and pursue the goal of discovering and explaining, if we can, the more fundamental notions. Which alternative

should we adopt?

It seems more likely that in order to be able to “do” ethics in the universal way that everyone all over the world does, we must have certain fundamental moral intuitions or mental features in common. Perhaps, for example, we have a rule to avoid pain because we are programmed to think that pain is intrinsically disvaluable. Regardless of how the fundamental mechanisms of ethics work, it is more reasonable to say that there are no coincidences between our intuitions and results and assumptions of contractualist theories. The similarity is best explained by recognizing that contractualists incorporate prior notions of morality into their theories-- but never admit doing so.

The final two objections address unique problems with Scanlon’s theory. First, by narrowing the scope of obligations considered to include only those which people have to other people (pp.6-7), Scanlon might have created an artificial world system that has little relevance to the actual one. Oddly enough, Scanlon seems to obliquely acknowledge this when he writes that “it is not clear that morality in the broader sense is a single subject that has a similar unity [to what we owe each other]” (p. 7). The point is that in order to know what one’s duties actually are and why they are duties, we might have to consider all the obligations we have or could have. More importantly, in order to have duties to other people, we might first have to have more general duties dictated by more fundamental principles. It is plausible to maintain that there is a universal theory governing all conduct, which may be very simple, or very complex, or incorporate many different, sub-principles. By considering only human obligations to other humans, we miss the overriding theory because we are not focusing on the nuances that ethics actually has.

Consider the case of certain economic and ethical theories assuming the existence of rational utility maximizers, or worse yet, that all people within the system act in such a way as to maximize utility all the time. Given this assumption, it is easy to perceive why people would argue for the validity of a capitalist or libertarian distributive justice principle, for why people should be competitive, and for the other features of Egoism and a free market system. The rules and actions for the system are very easy to discover. Sellers morally sell at the lowest price that they are willing to take, which is the highest price that the buyer is willing to morally pay. Capital ethically flows only to those areas that are best suited to produce maximum return for the investment and so on.

However, one problem with this consistent and coherent ethical and economic system is the fact that no such creature as a rational utility maximizer exists. People generally do not act in their long-term best interests, nor are they fully capable of always acting in such a manner. Furthermore, even if there were rational utility maximizers, they would be unable to maximize utility a great deal of the time due to external mediation. Markets are driven in large part by psychological factors, unforeseen disasters, success, and other variables that do not lend themselves to complex but certain statistical equations or analysis. The result is that the market’s actions and consequences are virtually impossible to predict with any accuracy a great deal of the time; thereby making it impossible to achieve the goal of maximizing utility. Since the primary goal cannot be achieved, systems based upon rational utility maximizers and completely free markets are irrelevant to the real world. Hence, the overall result is that too many resources are wasted on developing and analyzing the artificial system and its rules, while the actual system is ignored.

The same problem plagues Scanlon’s theory. No one would disagree that the obligations we have to ourselves, animals, nature, etc. play important roles in our lives. The question is whether or not

these obligations can tell us anything about the actual moral principles that shape our obligations to other people. More importantly, can we even have moral obligations to others, without having obligations to non-humans or ourselves?

In order to find the answer to the question, it is useful to speculate about what Scanlon would say if confronted with the following situation. Suppose that after many years of faithful service, a farmer decides her dog is no longer useful to her. Her husband, however, has developed a particular fondness for the creature, and does not want him destroyed. Ignoring her spouse's feelings, the farmer puts the animal down. What was the moral thing to do in this case? Since the alternatives are between the diametrically opposed alternatives of putting the dog to sleep or allowing the *de facto* situation to continue, Scanlon's theory must classify any action the farmer does in this situation as morally neutral, i.e., neither right nor wrong. Due to the difference in opinion of the farmer and her spouse, it would be reasonable for each to reject principles prohibiting or prescribing the death of the animal.

However, to resolve the conflict, we might say, as some plausibly would, that it is wrong to put the animal to sleep because it devalues life, especially the life of an innocent creature, when doing so is not necessary to prevent greater harm. But if it is true for one animal, then this insight is applicable to all living animals, including human beings. So, there might be a true objective principle, with which not everyone would agree, that the taking of an innocent life is wrong, if doing so is not needed to protect something of comparable moral worth. Or there could be a utilitarian consideration that disallows the euthanasia of an animal. Regardless of what the principle actually is, since it is more fundamental than, yet seems to focus on the same moral values as Scanlon's theory does, it might be the reason we have duties to other people in the first place. That is, we can only have duties to others if we have duties prescribed by the more general principle of ethics. Scanlon must give us an argument for why this is not the case and that his narrow focus is legitimate.

Furthermore, the conflicts in duties between duties to others and those to non-humans or ourselves need to be resolved, so that we can do the right thing, but Scanlon's theory provides no guidance nor classification (p. 220). Moreover, the fact that there are conflicts shows a weakness in Scanlon's theory. In order to resolve the conflicts, there must be a theory that is outside both systems of morality because we have already stepped outside of the narrower sub-systems by having a conflict between them. It might be the case that the more general moral theory allows for conflicts, but uses values that apply to all aspects of morality by which to resolve them.

Another alternative is that the more general theory does not allow conflicts of duties. For W.D. Ross, there is only one true duty to an individual at a particular time in a particular situation. Hence, there may be times when I owe nothing to another person because I have a more stringent duty to either myself or nature.

A third alternative is that there are technical moral dilemmas that are unresolvable. In these situations, the moral theory says that here is nothing the agent can do that is not morally forbidden.

Regardless of which alternative of the three is correct, the fact that there is a more general overarching theory poses a problem for Scanlon. By considering moral notions outside of what obligations we owe to each other, the more general theory necessarily incorporates more principles

and moral notions than Scanlon does in his theory. Hence what we owe to each other is largely, if not totally, irrelevant in light of what our overall obligations are according to the overarching theory.

Finally, the example of the dog and farmer is richer than might first have been suspected. The fact that it is plausible to assume that there could arise situations in which no principle can be agreed upon should make us question the legitimacy of Scanlon's theory. In the case of the loyal dog, the action of putting the dog to sleep or keeping him alive should have a moral status of right or wrong, but the formulation of Scanlon's theory makes it possible that it has no moral status whatsoever. Since an action must be prescribed or proscribed by a principle for it to be right or wrong, in cases of controversy, where all alternative principles can be reasonably rejected by the people involved, sometimes there will be no principle to prohibit or prescribe. This result is especially worrisome on very controversial issues, such as abortion or euthanasia, where we desperately want principles to provide guidance and classification of duties and action, but the conflict makes agreement between reasonable people impossible.

The second unique problem to Scanlon's theory is how implausible it is once we realize that the pre-conditions he incorporates into the theory make it either a tautology or implausible. One of the most important of Scanlon's suppositions is found in the theory itself. "In the contractualist analysis of right and wrong, what is presupposed first and foremost is the aim of finding principles that others who share this aim would not reasonably reject" (p. 192). Furthermore, Scanlon states that the "supposed aim [is] of reaching agreement or finding a course of action that everyone is happy with" (p. 33). Repeatedly, we are informed that the principles, which govern various situations, cannot reasonably be rejected by anyone who shares the aim.

However, what does the condition of sharing the aim entail? First, let us suppose that it is a very strong condition. It means that everyone has the exact same goal, mental states, decision procedures, information, biases, opinions, mindset, or whatever is required to make the decision about principles that Scanlon's theory is based upon. The benefit of this approach is that everyone would always agree to certain principles once they had all the information discovered by placing themselves into the various standpoints, considering costs and benefits of implementation of the principles and others, fairness, well being, etc.

Unfortunately, this cannot be what Scanlon intends because it leads to an absurdity.¹¹ If everyone were identical in their thinking processes and possessed identical information, then they would necessarily arrive at identical conclusion each and every time. Hence, we would not need to worry about whether or not there was complete agreement-by definition, there would be. Each person using the theory would be the ideal arbiter of right and wrong. Whatever he decided, every person would agree with; therefore he would always be right.

A more reasonable approach to take is to allow variations in information, mental states, and decision procedures, which is what Scanlon claims to do. (p. 32). Under this less strict interpretation, though reasonable people would disagree about quite a few things, Scanlon claims there will be instances when they unanimously agree on certain principles or it would be unreasonable for any of them to reject the principle. For example, they might be unable to reasonably reject the Rescue Principle, but would reasonably reject a principle that would enslave a

small group of society's members.

The difficulty of adopting this approach is that there is little reason to believe that all reasonable people would ever unanimously agree to anything. That is, someone could reasonably reject a principle, regardless of what that principle is. For example, one person may see what he considers to be a better principle because he has evaluated the information available to him in a different manner than has another person with identical information. Moreover, there is a possibility that people with identical methods of evaluation will come to different conclusions based on slightly different data sets. Finally, even if the decision procedures and information are identical, the individuals may have mental states, such as personal preferences, that would produce different legitimate results.

Let us consider Scanlon's example of water rights to understand the fundamental flaw in this interpretation of sharing the same aim.

Suppose that we are negotiating about water rights in our county, and that there is one landowner who already controls most of the water in the vicinity. This person has no need of our cooperation. He can do as he pleases, and what he chooses to do will largely determine the outcome of negotiations. Suppose also that while he is not ungenerous (he would probably provide water from his own wells for anyone who desperately needed it) he is extremely irritable and does not like to have the legitimacy of his position questioned. In such a situation, it would not be unreasonable for one of us to maintain that each person is entitled to at least, a minimum supply of water, and to reject any principle of allocation which does not guarantee this (p. 192).

The only people who would agree with Scanlon's conclusion about entitled water are those who already share his intuitions on distributive justice. Required sharing is closer to an egalitarian or socialist position than it is to capitalism or libertarianism. For a group of socialists or egalitarians, it would be unreasonable to reject the principle of minimum water rights.

However, a group of libertarians, for example, would vehemently disagree with Scanlon's conclusion. If the landowner had acquired his water rights in the proper way¹², then the libertarians would say he has every right to do with it as he pleases, as long as so doing does not illicitly affect the others' freedom. Since they do not own the water rights, they cannot say that their freedom is compromised by not receiving something they do not deserve. Hence, for a society of libertarians, it would be reasonable to reject any principle, which entitled each person to a minimum share of water.

If we try to satisfy all four groups of people, in regards to the distributive justice principle, we are bound to fail. Socialists, egalitarians, capitalists, and libertarians would each formulate a principle of distribution based upon their biases about what is more important. These biases are not unreasonable, given what Scanlon says about reasonableness. For Scanlon, reasonableness is relative to the information and "range of reasons" a person possesses. Furthermore, "[w]hen we say, in the course of an attempt to reach some collective decision, that a person is being unreasonable, what we often mean is that he or she is refusing to take other people's interests into account" (p. 33). Therefore, in the case of the water rights, none of the four sides will see it as being reasonable to alter its position to sufficiently accommodate the other for two reasons. First, they are being

reasonable by taking other people's interests into account, albeit in different ways. Second, though the distributive justice theory that each group finds preferable is incompatible with the others, because of their personal bias they are still convinced that theirs is the only correct theory. Hence, there will be no agreement and no principle of distribution, when such a principle is clearly needed.

One of the main faults here lies in the vague definition of what it means to be reasonable and what must be done to take other people's interests into account. Unless we merely adopt Scanlon's intuitions in these matters, there is inadequate justification to believe that any principle would ever be above reasonable rejection. Personal biases and differences would always lead to different results in analysis—all of which are perfectly reasonable. This conclusion is clear from Scanlon's life-jacket example (p. 196). Given the fact that two people each require a life jacket to survive and there is only one life jacket available, the conflicting intuitions about the right course of action guarantee that no principle will be found that cannot be reasonably rejected. Some will argue that the first person to arrive at the jacket has absolute right to it, while others will claim that anything goes to preserve one's life, including the seizure of the jacket from the other. Surely, there is some right rule, but in these sorts of situations Scanlon must say that all actions are morally neutral, unless there might be, as Scanlon hypothesizes, but then does not develop, "a class of principles that are not rejectable" (p. 197). When he cannot even tell us if the strongest principle he considers—the Rescue Principle—is one of the unrejectable principles (p. 224), it becomes very hard to imagine what, if anything, would qualify for this unique set.

Conclusion:

Finding a theory, which helps us to lead moral lives, is still a necessary and unfulfilled task for ethics—one that is bound to bedevil many ethicists for a long time to come. However, the task could be best accomplished by avoiding several pitfalls at the outset. First, it is not the most prudent course of action to adopt a theory that cannot answer the questions of morality without incorporating more fundamental ideas. Second, though initially appealing, the over use of intuitions will lead to a theory that is absolutely intuitively appealing to the author and those who think the same as he, but has no persuasive force beyond this group. Perhaps it would be best to approach the project with the viewpoint of first empirically determining what sort of very general moral values all people share about all areas of moral obligation, then forming the outline of a theory from these building blocks.

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Endnotes:

- 1. For example, "it would not be unreasonable for one of us to maintain..." (p. 192)**
- 2. Principles are defined as general conclusions about the status of various kinds of reasons for action. (p. 199).**
- 3. Though Scanlon makes a distinction between the two types of theories, I will use words synonymously to represent his theory.**

4. Though Scanlon does not directly address the issue, there might be actions that are morally neutral. They would constitute the set of actions that are neither proscribed or prescribed by any set of principles for regulating behavior..
5. There are many different personal reasons for rejecting a principle, though exactly what they are is left vague by Scanlon.
6. Though he says that it is merely plausible to believe it cannot be reasonably rejected.
7. It is interesting to note that the principle incorporates a moral evaluation. This is circular, robbing us of content. The principle should not say what is moral or not, rather an act is ethical or not if it is prescribed or proscribed by a rule. Hence, the Rescue Principle's consequent should read prescriptively "then failure to prevent the bad thing from happening or alleviate the dire plight is disallowed." Since there is no morality prior to the contract, and the principle is a term of the contract, which establishes morality, the principle cannot incorporate an outside notion of right or wrong.
8. In real life, there might be an almost infinite number of principles from which to choose. The sheer number of principles might eventually pose a problem for Scanlon's theory, but I will not address the issue further here.
9. This may be a problem for those advocating other theories, as well.
10. Furthermore, if there were no prior notions of morality, then nothing would make breaking the contract wrong, since doing so would be going "outside" the contract.
11. Though it seems to be the position he will be forced to adopt in the end.
12. That is by taking the water out of a state of nature, freely exchanging goods or services for it, or being freely given it by the proper owner.